

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

FORTIS CONSTRUCTION, LLC, f/k/a
AMS CONSTRUCTION, LLC,

Plaintiff,

versus

THOMAS AVALOS, JR.,

Defendant.

NO. 1:23-CV-00009-MAC-ZJH

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

On January 11, 2023, the court referred this case to the Honorable Zack Hawthorn, United States Magistrate Judge (#10). Pending before the court is Plaintiff/Counter-Defendant Fortis Construction, LLC f/k/a AMS Construction, LLC’s (“Fortis”) opposed Motion to Remand and Brief in Support (“Motion to Remand”) (#12). On February 9, 2023, Judge Hawthorn issued his Report and Recommendation (#22), recommending that the court remand the case to the state trial court, and deny Fortis’s request for attorneys’ fees.

The court has received and considered the report. The parties have not filed objections to the report and recommendation, and the time for doing so has passed. *See* 28 U.S.C. § 636(b)(1)(C).

It is therefore ORDERED that the report and recommendation of the magistrate judge (#22) is ADOPTED. Plaintiff/Counter-Defendant Fortis Construction, LLC f/k/a AMS Construction, LLC's Motion to Remand and Brief in Support (#12) is GRANTED IN PART and DENIED IN PART. This case is REMANDED to the 253rd Judicial District Court of Liberty

County, Texas, as Cause Number 22DC-CV-01607, for Defendant/Counter-Plaintiff Thomas Avalos, Jr.'s violation of the "forum-defendant rule" in removing the case to this court. Accordingly, all pending motions are DENIED AS MOOT.

SIGNED at Beaumont, Texas, this 21st day of February, 2023.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE